

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LARRY MOORE, JR., §
§
Plaintiff, §
§
v. § CASE NO. _____
§
HOUSTON POLICE DEPARTMENT, §
CITY OF HOUSTON and individually, §
KEVIN HUBENAK §
§
Defendant. §

NOTICE OF REMOVAL

Defendant Kevin Hubenak files this notice of removal pursuant to 28 U.S.C. Sections 1331 and 1441(a), and in support thereof state as follows:

1. On July 7, 2017, Plaintiff Larry Moore, Jr. filed his Original Complaint and Demand for Jury Trial in the 165th Judicial District Court of Harris County, Texas, Cause No. 2017-44946, alleging that the Houston Police Department, City of Houston and Officer Kevin Hubenak, a City of Houston police officer, violated his constitutional rights under the Fourth and Fourteenth Amendments to be free from unreasonable search and seizure, the use of excessive force, related to his arrest on July 7, 2015. Plaintiff made a jury demand in state court.

2. Removal is proper because this suit involves a federal question. See Paragraph 1 above.

3. Venue is proper in this district court under 28 U.S.C. Section 1441(a) because the state court where the suit is pending is located in this district.

4. Defendant Kevin Hubenak was served with process on August 2, 2017.¹ The

¹ Defendant Houston Police Department was served with process on July 27, 2017.

remaining defendant has not been served. Defendant has filed this notice of removal within the 30-day time period required under 28 U.S.C. Section § 1446(b)(1). All defendants who have been properly joined and served in the suit have consented to this removal.

5. Copies of all pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. Sections 1446(a) and 1447(b) and Local Rule 81 of the U.S. District Court for the Southern District of Texas.

6. Defendant will promptly file a copy of this notice and attachments in the state court. 28 U.S.C. § 1446(d).

For the reasons stated above, Defendant Houston Police Department respectfully removes this suit to the Southern District of Texas, Houston Division.

Respectfully submitted,

RONALD C. LEWIS
City Attorney

DONALD J. FLEMING
Section Chief, Labor, Employment, & Civil Rights

By: /s/ Nelita N. Hatch
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ATTORNEYS FOR DEFENDANT KEVIN
HUBEKAK

CERTIFICATE OF SERVICE

I certify that on **August 16, 2017**, pursuant to Federal Rules of Civil Procedure, a true copy of the instrument to which this Certificate is attached was duly served upon each party to this cause on the CM/ECF system, which will automatically serve a Notice of Electronic Filing on the following:

CM/RRR# 9414 7266 9904 2077 8794 30

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/s/ Nelita N. Hatch _____
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